

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
PECOS DIVISION**

BLANCA PENA LOZANO

Plaintiff,

v.

**JEAN CLAUDE BRIZARD AND P.N.L.
TRANSPORT, LLC**

Defendants.

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CIVIL ACTION NO. 4:21-cv-46

INDEX OF STATE COURT FILE

The following is an index identifying each state court document and the date in which each document was filed in the 83rd Judicial District Court of Pecos County, Texas.

EXHIBIT	DATE	DOCUMENT
2		State Court File
2a	06/29/2021	Docket Sheet
2b	04/28/2021	Plaintiff's Original Petition
2c	06/04/2021	Return of Service – Jean Claude Brizard via Texas Department of Transportation
2d	06/04/2021	Return of Service – P.N.L. Transport, LLC via Texas Department of Transportation
2e	06/23/2021	Affidavit of Service to Jean Claude Brizard by serving Texas Department of Transportation
2f	06/23/2021	Affidavit of Service to P.N.L. Transport, LLC by serving Texas Department of Transportation

EXHIBIT 2

EXHIBIT 2a

https://research.txcourts.gov/CourtRecordsSearch/ViewCasePrint/221aa8b2b7e35110b8ecf521e5c8c185

Case Information

BLANCA PENA LOZANO vs. JEAN CLAUDE BRIZARD,P.N.L. TRANSPORT, LLC

P-8359-83-CV

Location	Case Category	Case Type	Case Filed Date
Pecos County - 83rd District Court	Civil - Injury or Damage	Motor Vehicle Accident	4/28/2021

Judge
Cadena, Robert E.

Parties3

Type	Name	Attorneys
Plaintiff	BLANCA PENA LOZANO	CIRO J SAMPERI
Defendant	P.N.L. TRANSPORT, LLC	
Defendant	JEAN CLAUDE BRIZARD	

Events5

Date	Event	Type	Comments	Documents
4/28/2021	Filing	Petition	Plaintiff's Original Petition	Plaintiffs Original Petition - Lozano.pdf
6/4/2021	Filing	No Fee Documents	Return of Service - Jean Claude Brizard	Return of Service - Brizard.pdf
6/4/2021	Filing	No Fee Documents	Return of Service - P.N.L. Transport, LLC	Return of Service - P.N.L..pdf
6/23/2021	Filing	No Fee Documents	Return of Citation Service: Jean Claude Brizard	Brizard ROS.pdf
6/23/2021	Filing	No Fee Documents	Return of Citation Service: PNL Transport	PNL Transport ROS.pdf



EXHIBIT 2b

Sylvia Guerra

CAUSE NO. P-8359-83-CV

4/29/2021

BLANCA PENA LOZANO

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IN THE DISTRICT COURT OF

VS.

PECOS COUNTY, TEXAS

JEAN CLAUDE BRIZARD AND
P.N.L TRANSPORT, LLC83rd JUDICIAL DISTRICT**PLAINTIFF'S ORIGINAL PETITION**

COMES NOW, BLANCA PENA LOZANO and files this Original Petition complaining of JEAN CLAUDE BRIZARD and P.N.L TRANSPORT, LLC (collectively "Defendants") and would respectfully show as follows:

DISCOVERY CONTROL PLAN

1. Pursuant to Rules 190.1 and 190.4 of the Texas Rules of Civil Procedure, discovery is intended in this lawsuit to be conducted under Level 3.

PARTIES

2. Plaintiff, BLANCA PENA LOZANO, is a resident of Pecos County, Texas.

3. Defendant, P.N.L TRANSPORT, LLC, is a foreign corporation organized and existing under the laws of Florida, whose principle office is located at 4271 NW 191 Street Miami Gardens, Florida 33055. Defendant P.N.L TRANSPORT, LLC, may be served by serving their registered agent for service, Joan A. Paez, in Miami-Dad County at address 4271 NW 191 Street Miami Gardens, Florida 33055. Service of said Defendant/Registered agent may be effected by serving the Chairman of the Texas Transportation Commission at 125 E. 11th Street, Austin, Texas 78701, as Defendant's agent for service in Texas under Section 17.062(a) and 17.063 of the Texas Civil Practice and Remedies Code because Defendant engages in business in Texas but has not designated or maintained a resident agent for service of process in Texas.

4. Defendant JEAN CLAUDE BRIZARD is resident of Palm Beach County, Florida. He may be served with process at his home at the following address: 6031 N 10th Avenue Unit #118 Greenacres, Florida 33463. Service of said Defendant may be effected by serving the Chairman of the Texas Transportation Commission at 125 E. 11th Street, Austin, Texas 78701, as Defendant's agent for service in Texas under Section 17.062 and 17.063 of the Texas Civil Practice and Remedies Code because Defendant is a nonresident of Texas in a suit that grows out of a collision or accident in which the person is involved while operating a motor vehicle in the state.

JURISDICTION AND VENUE

5. The court has jurisdiction of the subject matter of this lawsuit and the amount in controversy is above the minimum jurisdictional limits of this Honorable Court. Plaintiff is seeking monetary more than \$200,000.00.

6. This court has jurisdiction over the parties because Defendants purposefully availed itself of the privilege of conducting activities in the state of Texas and established minimum contacts sufficient to confer jurisdiction over said Defendant, and the assumption of jurisdiction over Defendant will not offend traditional notions of fair play and substantial justice and is consistent with the constitutional requirements of due process.

7. Plaintiff would show that Defendants had continuous and systematic contacts with the state of Texas sufficient to establish general jurisdiction over said Defendants.

8. Plaintiff would also show that the cause of action arose from or relates to the contacts of Defendants to the state of Texas, thereby conferring specific jurisdiction with respect to said Defendants.

9. Venue is proper in Pecos County, Texas pursuant to TEX. CIV. PRAC. & REM. CODE § 15.002(a)(1) because it is the county in which all or a substantial amount of the events or omissions giving rise to the claim made the basis of this lawsuit occurred.

FACTS

10. On or about November 24, 2019, Plaintiff was traveling in Pecos County, Texas when Defendant JEAN CLAUDE BRIZARD caused a collision with Plaintiff. As a result of the collision, Plaintiff suffered serious bodily injuries.

CAUSES OF ACTION AGAINST JEAN CLAUDE BRIZARD

A. NEGLIGENCE

11. At the time and on the occasion in question, Defendant Brizard committed acts of omission and commission, which collectively and separately constituted negligence. Defendant Brizard had a duty to exercise ordinary care, meaning that degree of care that would be used by any individual of ordinary prudence under the same or similar circumstances. Defendant Brizard breached that duty, including but not limited to, one or more of the following ways:

- a. Failing to maintain a proper lookout;
- b. Failing to control speed;
- c. Failing to apply the brakes to the vehicle in a timely manner to avoid the collision in question; and
- d. Failing to operate the vehicle in a non-negligent manner;

12. Such negligence, either singularly or in combination, proximately caused the injuries and damages sustained by the Plaintiff.

B. GROSS NEGLIGENCE

13. Defendant Brizard's acts and omissions, as previously described, were committed with complete and reckless disregard for, and with willful, wanton, and actual conscious indifference to, the rights, safety, and welfare of the Plaintiff and the general public. The nature of Defendant Brizard's acts and omissions were of such a nature as to constitute gross negligence and malice. Specifically, Defendant Brizard undertook a continuous course of action in the form of conscious decisions, with subjective knowledge and awareness of the risks and hazards presented by each decision as discussed above and incorporated herein, to expose Plaintiff and others on the roadway to life threatening hazards. When viewed objectively from the standpoint of Defendant Brizard at the time of their occurrence, said acts and omissions involved an extreme degree of physical risk and danger, considering the probability and the magnitude of the potential harm to others. Defendant Brizard committed various acts and omissions constituting gross negligence, as outlined above. Such gross negligence was a proximate cause of the occurrence and Plaintiff's injuries and damages.

CAUSES OF ACTION AGAINST P.N.L TRANSPORT, LLC

A. NEGLIGENT HIRING

14. Plaintiff pleads that Defendant PNL Transport owed a legal duty to protect him from the negligence of Defendant Brizard while he was acting in the course and scope of his employment with, or alternatively, while he was on a mission on behalf of Defendant PNL Transport. Plaintiff sustained damages proximately caused by Defendant PNL Transport's breach of said duty. In particular, Defendant PNL Transport was negligent in hiring Defendant Brizard, an incompetent, unfit, or reckless employee-driver whom Defendant PNL Transport knew, or by

the exercise of reasonable care should have known, to be incompetent, unfit, or reckless, thereby creating an unreasonable risk of harm to others.

B. NEGLIGENT RETENTION

15. Plaintiff further pleads that Defendant PNL Transport negligently retained Defendant Brizard as an employee-driver. Defendant PNL Transport owed Plaintiff a legal duty to protect him from the negligence of Defendant Brizard while he was acting in the course and scope of his employment with, or alternatively, while he was on a mission on behalf of PNL Transport. Plaintiff sustained damages proximately caused by PNL Transport's breach of said duty. In particular, PNL Transport was negligent in retaining Defendant Brizard, an incompetent, unfit, or reckless employee-driver whom PNL Transport knew, or by the exercise of reasonable care should have known, to be incompetent, unfit, or reckless, thereby creating an unreasonable risk of harm to others.

C. NEGLIGENT ENTRUSTMENT

16. Plaintiff further pleads Defendant PNL Transport negligently entrusted their motor vehicle to their employee, Defendant Brizard. PNL Transport was the owner of the motor vehicle involved in the incident and consented to and permitted their employee, Defendant Brizard, to operate the motor vehicle at the time of the incident. Defendant Brizard was an incompetent or reckless driver and PNL Transport knew or should have known Defendant Brizard was an incompetent or reckless driver. Defendant Brizard was negligent on the occasion in question in a manner that was reasonably foreseeable by PNL Transport, and the negligence proximately caused Plaintiff's injuries.

D. RESPONDEAT SUPERIOR – DEFENDANT PNL TRANSPORT

17. Plaintiff affirmatively pleads that any alleged acts or negligence of Defendant Brizard were committed while he was acting in the course and scope of his employment with, or alternatively, while he was on a mission on behalf of Defendant PNL Transport and are thus imputed on to PNL Transport under the legal theory of *respondeat superior*.

DAMAGES

18. As a result of Defendants' negligence, Plaintiff suffered injuries. Plaintiff brings this action for the following damages:

- a. Past physical pain and suffering of Plaintiff, and that which he will in all probability suffer in the future;
- b. Past physical impairment of Plaintiff, and that which he will in all probability suffer in the future;
- c. Past mental anguish of Plaintiff, and that which he will in all probability suffer in the future;
- d. The medical expenses that Plaintiff has incurred in the past and will in all reasonable probability continue to incur in the future;
- e. Past and future lost earnings or loss of wage-earning capacity; and
- f. Any and all other damages to which Plaintiff may be justly entitled.

19. Plaintiff seeks both prejudgment and post-judgment interest as allowed by law, for all costs of court, actual damages, compensatory damages, and all other relief, both in law and in equity, to which Plaintiff may be entitled.

PRAYER

20. Plaintiff prays that Defendants be cited in terms of law to appear and answer herein, that upon final trial and hearing hereof, Plaintiff recovers damages from Defendants in accordance

with the evidence; that Plaintiff recovers costs of court herein expended; that Plaintiff recovers interest to which Plaintiff is justly entitled under the law, both prejudgment and post-judgment; that Plaintiff recovers actual damages; that Plaintiff is entitled to recover compensatory damages; and for such other further relief, both general and special, both in law and in equity, to which Plaintiff may be justly entitled.

Respectfully submitted,

**ABRAHAM, WATKINS, NICHOLS,
AGOSTO, AZIZ & STOGNER**

By: /s/ *Ciro J. Samperi*
CIRO J. SAMPERI
Texas Bar No.: 24075006
800 Commerce Street
Houston, Texas 77002
Telephone: (713) 222-7211
Facsimile: (713) 225-0827
csamperi@awtxlaw.com

ATTORNEY FOR PLAINTIFF

EXHIBIT 2c



Arelee Flores

6/9/2021

125 EAST 11TH STREET, AUSTIN, TEXAS 78701-2483 | 512.463.8630 | WWW.TXDOT.GOV

May 28, 2021

Jean Claude Brizard
6031 N. 10th Avenue, Unit #118
Greenacres, FL 33463

COPY

Re: GCD No. 46029
Cause No. P-8359-83-CV
Pecos County
Plaintiff: Blanca Pena Lozano
Defendant: Jean Claude Brizard

Dear Sir/Madam:

In compliance with the Texas long-arm statute, Texas Civil Practice and Remedies Code, Chapter 17, Subchapter D, the Chair of the Texas Transportation Commission was duly served with the enclosed Citation and Plaintiff's Original Petition on May 28, 2021.

This agency's only role in the process is to serve as an out-of-state defendant's agent for service of process. We are unable to answer any questions or respond to correspondence regarding this lawsuit. All questions or concerns should be addressed to the attorney noted below.

General Counsel Division

Enclosures

cc: Ciro J. Samperi
Attorney at Law
800 Commerce Street
Houston, TX 77002
Telephone (713) 222 7211

U.S. Certified Mail No. 7017 1450 0001 3753 8336
Return Receipt Requested

TEXAS TRANSPORTATION COMMISSION CHAIRMAN'S CERTIFICATE

NO. P-8359-83-CV

BLANCA PENA LOZANO

VS.

JEAN CLAUDE BRIZARD AND P.N.L.
TRANSPORT, LLC

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IN THE DISTRICT COURT

83RD JUDICIAL

PECOS COUNTY, TEXAS

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW J. Bruce Bugg, Jr., Chairman of the Texas Transportation Commission,
and Certifies to the court as follows:

That on May 28, 2021, I was duly served with Citation and copy of Plaintiff's Original
Petition in the above styled and numbered cause, which I immediately caused to be
forwarded by U.S. Certified Mail, certified number 7017 1450 0001 3753 8336 addressed
to Jean Claude Brizard, 6031 N. 10th Avenue, Unit #118, Greenacres, FL 33463 with
postage prepaid, return receipt requested;

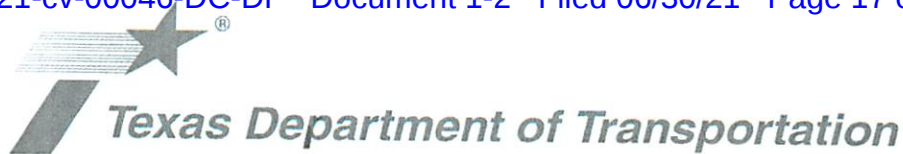
In witness whereof, this certificate is issued in Austin, Texas, this 28th day of May,
2021.



A handwritten signature in black ink, appearing to read "J. Bruce Bugg, Jr.", is written over a horizontal line.

Chairman, Texas Transportation Commission

EXHIBIT 2d



Arelee Flores

125 EAST 11TH STREET, AUSTIN, TEXAS 78701-2483 | 512.463.8630 | WWW.TXDOT.GOV

6/9/2021

May 28, 2021

P.N.L. Transport, LLC
4271 NW 191 Street
Miami Gardens, FL 33055

COPY

Re: GCD No. 46030
Cause No. P-8359-83-CV
Pecos County
Plaintiff: Blanca Pena Lozano
Defendant: P.N.L. Transport, LLC

Dear Sir/Madam:

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Return Receipt Requested

TEXAS TRANSPORTATION COMMISSION CHAIRMAN'S CERTIFICATE

NO. P-8359-83-CV

BLANCA PENA LOZANO

VS.

JEAN CLAUDE BRIZARD AND P.N.L.
TRANSPORT, LLC

§ IN THE DISTRICT COURT
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§ 83RD JUDICIAL
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§ PECOS COUNTY, TEXAS

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Chairman, Texas Transportation Commission

EXHIBIT 2e

AFFIDAVIT OF SERVICE

Sylvia Guerra

State of Texas

County of Pecos

83rd Judicial District Court

Case Number: P-8359-83-CV

6/23/2021

Plaintiff:

Blanca Pena Lozano

vs.

Defendant:

Jean Claude Brizard and P.N.L. Transport LLC

For:

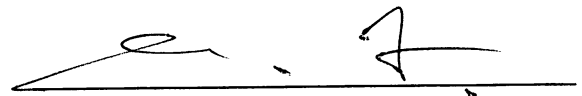
Abraham, Watkins, Nichols, Sorrels, Agosto, Aziz & Stogner
800 Commerce Street
Houston, TX 77002

Received by Mike Techow on the 27th day of May, 2021 at 3:39 pm to be served on **Jean Claude Brizard by serving the Texas Transportation Commission, 125 E. 11th Street, Austin, Travis County, TX 78701.**

I, Mike Techow, being duly sworn, depose and say that on the **28th day of May, 2021 at 3:15 pm, I:**

delivered to **REGISTERED AGENT** by delivering a true copy of the **2 copies - Citation and Plaintiff's Original Petition with a \$25.00 Texas Transportation Fee** with the date of service endorsed thereon by me, to: **Stacie Deal, Texas Transportation Commission as Authorized Agent** at the address of: **125 E. 11th Street, Austin, Travis County, TX 78701** on behalf of **Jean Claude Brizard**, and informed said person of the contents therein, in compliance with state statutes.

My name is Mike Techow. My date of birth is 6/26/1972. My work address is 809 Nueces, Austin, TX 78701. I declare under penalty of perjury that the foregoing is true and correct. Executed in Travis County on May 28, 2021 by Mike Techow, declarant.



Mike Techow
PSC-1215, Exp. 7/31/2022

Southwest Litigation Service
826 Heights Blvd.
Houston, TX 77007
(713) 650-1800

Our Job Serial Number: MST-2021003687
Ref: Lozano vs. Brizard

EXHIBIT 2f

AFFIDAVIT OF SERVICE

Sylvia Guerra

State of Texas

County of Pecos

83rd Judicial District Court

Case Number: P-8359-83-CV

6/23/2021

Plaintiff:

Blanca Pena Lozano

vs.

Defendant:

Jean Claude Brizard and P.N.L. Transport LLC

For:

Abraham, Watkins, Nichols, Sorrels, Agosto, Aziz & Stogner
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Mike Techow
PSC-1215, Exp. 7/31/2022

Southwest Litigation Service
826 Heights Blvd.
Houston, TX 77007
(713) 650-1800

Our Job Serial Number: MST-2021003688
Ref: Lozano vs. Brizard